

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

WILLARD ALAN SMITH,)
)
Petitioner,)
)
v.) 1:13CV911
)
LARRY DAIL,)
)
Respondent.)

ORDER

On March 28, 2014, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 10 and 11.) Petitioner timely filed objections (Doc. 12) to the Recommendation.

This court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss (Doc. 6) is **GRANTED**, that the habeas corpus petition (Doc. 1) is **DENIED**, and that this action is **DISMISSED**. A Judgment dismissing this action will be entered contemporaneously with this Order.

IT IS FURTHER ORDERED that Petitioner's Request for a Certificate of Appealability (Doc. 13) is **DENIED**. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 30th day of May, 2014.

William L. Osten, Jr.

United States District Judge